

Appeal No. VA00/3/022

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 1988
VALUATION ACT, 1988

Bay Trading Co.,

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop @ Map Reference Lot No. 1.2AB.3/Unit 63 Liffey Valley S.C., Palmerstown
Upper, County Dublin

B E F O R E

Henry Abbott - Senior Counsel

Chairman

Michael Coghlan - Solicitor

Member

Fred Devlin - FRICS.FSCS

Deputy Chairman

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 4TH DAY OF OCTOBER, 2001

By notice of appeal dated 29th September, 2000 the appellants appealed against the determination of the Commissioner of Valuation in fixing rateable valuation of £390 on the above described hereditament.

The grounds of appeal are as set out in the Notice of Appeal " (1) The Valuation is excessive and inequitable in accordance with the Provisions of the Valuation Acts.

(2) The Valuation is bad in law due to the late notification sent to Bay Trading from South Dublin County Council advising that the subject property had been listed for revision."

The appeal proceeded by way of an oral hearing, which took place on the 28th day of May 2001 at the Tribunal Offices Ormond House, Ormond Quay, Dublin 7. The Appellant was represented by Mr. Thomas Davenport ASCS, ARICS, Chartered Surveyor, Lisney Estate Agents Auctioneers and Surveyors. The respondent was represented by Mr. Kevin Heery B Comm M.I.A.V.I., Grad Diploma (Planning & Development Economics) who is a District Valuer with 30 years experience with the Valuation Office.

Having taken the oath each valuer adopted as his evidence in chief his written submission, which had previously been exchanged by the valuers and submitted to the Tribunal. It was agreed by the parties at the outset that the subject appeal would be in the nature of a test case with the Tribunal's ruling being applied to other pending appeals by agreement between the parties. The Tribunal was also informed that the issue of notification that was a ground of appeal in the Notice of Appeal was not being proceeded with.

The Property

The subject unit is located in the Liffey Valley Shopping Centre. This Centre is located on the south side of the Lucan road close to its intersection with the M50 ring road and c. 5 miles west of the city centre. The unit is located on the southside of the centre mall within the Centre. Immediate adjoining occupiers include Wallis, Mango and Sasha fashion shops. Liffey Valley Shopping Centre consists of a predominantly linear shopping mall comprising Marks and Spencer Department Store located at the eastern end of the mall with a smaller anchor store formerly occupied by C&A located at the western end. The Centre mall, where the subject is located, accommodates 40 units and there are an additional nine units at the central entrance mall. There are three entrances to the shopping centre.

The subject unit is one of a number of standard units having a net internal frontage of 7m and an overall depth of 29m. The unit is constructed with concrete block walls plastered and painted internally concrete floor with woodblock covering suspended ceiling with inset ceiling lights and timber frame full length glass frontage incorporating steel roller shutter security door. The majority of the accommodation is laid out as sales retail area with stockroom/ fitting room/ staff facilities at the rear. A mezzanine section incorporating kitchen and stock room was

subsequently added at the rear of the unit but this area does not form part of this appeal. Headroom in the main retail area is circa 9 feet while the rear fitting room/stock room has a lower headroom of 7ft 6 inches to accommodate the mezzanine floor. The unit has the benefit of two electrically operated air-conditioning units.

Accommodation

The agreed accommodation is as follows

Gross Internal Floor Area	204metres	2183 feet
Net Internal Frontage	7 metres	22ft 9 inches

Valuation History

The property was valued in the 1998/4 revision as part of an overall revision of valuations in the new Liffey Valley Shopping Centre. A Rateable valuation of £415 was placed on the subject. An appeal was lodged to the Commissioner of Valuation (one of 57 appeals arising from revisions in 1998 and 1999). Following submissions and discussion with 18 agents involved in the appeals in this centre, the decision of the Commissioner of Valuation issued on 11 September 2000. A rateable valuation of £390 was placed on the subject property.

Tenure

The property is held on a 25 year lease from 1/7/1998 with 5 year reviews subject to an initial annual rent of £120,000.

Appellant's Case

Mr Davenport set out his valuation considerations as follows:

- 1 The original plan for the Centre was on a much larger scale with a capacity for 2 million square feet of retail space. Such a development would have been in a position to compete with Tallaght and Blanchardstown shopping Centres.
- 2 The original concept of 2 million sq.ft. was scaled down to 500,000 sq.ft. and this still would have been adequate to provide a full range of retail space including a large supermarket. Tesco had planned to develop a food store of about 80,000 sq.ft. in Liffey Valley but were unable to obtain satisfactory planning permission.

- 3 The tenants at the initial phase rented their units on the basis that the second phase of development of 250,000 sq.ft would be built within the foreseeable future.
- 4 The mix of tenants in the first phase was limited and included a high proportion of fashion and specialist shops catering largely for the upper end of the market. There was no broad appeal to the middle market in phase one as this was anticipated at a later stage when the grocery store together with an additional 35 units and other amenities would come on stream.
- 5 In March 2000 An Bord Pleanála rescinded the County Council approval for the 250,000 sq.ft. extension. A Ministerial directive has also capped the size of grocery outlets. Without such a grocery outlet it is very difficult for Liffey Valley to compete with Blanchardstown and offer the full range of traders usually found in a shopping centre.
- 6 The most obvious comparisons for Liffey Valley are the Blanchardstown Shopping Centre located a couple of miles north of the intersection of the M50 with the N3 National Route and the Square Shopping Centre located on the N81 National Route not far from its intersection with the M50.
- 7 The Square Shopping Centre however has designation in accordance with the 1986 Urban Renewal Acts. The tenants are entitled to a range of tax reliefs including double rent allowance and ten years rates remission. Therefore the Square is not considered to be truly comparable to Liffey Valley.
- 8 Blanchardstown is the most direct and obvious comparison. It has a retail area in excess of 500,000sq.ft. and a better mix of Irish and other retailers. The lack of balance compounded by the absence of a traditional grocery anchor is a serious drawback to Liffey Valley Shopping Centre.
- 9 Liffey Valley and Blanchardstown Shopping Centres were developed at different time periods i.e. Blanchardstown in 1994/1995 when investors and retailers were still somewhat cautious following the property slump caused by the currency crisis in 1992/1993. By contrast Liffey Valley was marketed in 1998 during a period when the economy was buoyant and optimism high. The rents achieved reflected the buoyancy in the economy and the optimism at that time.

Mr Davenport assessed the rateable valuation as follows;

Valuation

Estimate of Net Annual Value

Gross Internal Floor Area	2,183 sq.ft. (203 sq.m)
Frontage	7 metres
Ground Floor Retail Zone A	452 sq.ft. @ £40 per sq.ft. (42 sq.m. @ £430 per sq.m.)
Zone B	452 sq.ft. @ £20 per sq.ft. (42 sq.m. @ £215 per sq.m.)
Zone C	452 sq.ft. @ £10 per sq.ft. (42 sq.m. @ £108 per sq.m.)
Remainder	827 sq.ft. @ £5 per sq.ft. (77 sq.m. @ £54 per sq.m.)
Total Net Annual Value	£35,775
Reducing Factor to translate NAV into RV	0.63%
Rateable Valuation	$£35,775 \times 0.63\% = \text{RV}£225$

Mr Davenport supplied the Tribunal with comparisons in Blanchardstown, Tallaght and Liffey Valley Shopping Centres. The comparisons are attached to this Judgment as Appendix 1.

Respondent's Case

1. Liffey Valley Shopping Centre has been very successful due to:
 - a. Its strategic location at the junction of the M50 and N4 motorways.
 - b. Its anchor tenant is trading well
 - c. Turnover projections very positive
 - d. Contains the largest and most successful multiplex cinema in Ireland
 - e. No smoking policy throughout the centre
 - f. Excellent car parking – 3,000 car spaces
 - g. Excellent design with wide and bright malls and high headroom in the units.

Valuation

Valuation Office Estimate of Rent/NAV **£62,000**

How Computed:

Rent Passing 1/7/1998 £120,000

Averaged Rent of standard units £117,000

N A V (November 1988) (1/1.85) = £ 63,243

N A V **Say** £ 62,000

NAV represents 53% of 1998 Rent.

R V = £62,000 @ 0.63% = £390

R V £390 equates to 2183 sq ft @ £28.50/sq ft.

Mr Heery gave the Tribunal details of comparative evidence in the Liffey Valley and the Square Shopping Centres These comparisons are attached to this judgment as Appendix 2.

FINDINGS AND DETERMINATION:

The Tribunal has considered the written submissions and the oral evidence submitted and the matters raised at oral hearing by both the Appellant and the Respondent. The Tribunal has also taken note of the arguments adduced in respect thereof by Mr. Davenport and Mr. Heery.

As a general comment the Tribunal finds that the Commissioner for Valuation should certainly have taken cognisance of the rental levels and rateable valuations prevalent within the Blanchardstown Centre. Indeed the Tribunal is of the view that it would be bizarre to value the subject in isolation from the rental levels obtainable within the nearby Blanchardstown Shopping Centre even though these may be historically on the low side.

Mr. Davenport has relied heavily upon comparisons from within the Blanchardstown Shopping Centre and has also relied upon comparisons located within the Square Shopping Centre in Tallaght. Mr. Heery has sought to convince us that the Liffey Valley Shopping Centre units constitute the best comparative evidence. The Tribunal is not in agreement with either contention.

The Tribunal believes that relying solely on rental levels set within the Blanchardstown Shopping Centre would not be correct as time has moved on and in this respect it is generally accepted that Blanchardstown is now much more vibrant than when rents were originally agreed. Moreover, it is the view of the Tribunal that Blanchardstown as a Shopping Centre has considerably more potential for the retailer than Mr. Heery's main comparator, the Liffey Valley Shopping Centre. Indeed upon review of all rentals within the Blanchardstown Shopping Centre it would be a surprise to the Tribunal if rentals were not revised upwards substantially to reflect the foregoing.

It is noted that the subject is located within a shopping mall with ceiling heights greater than those found in Blanchardstown Shopping Centre. The mall has a higher standard of finish and overall has a more attractive ambience. However, as against that the shopping centre is capped in terms of development size and now has a preponderance of businesses in the clothing and

fashion trade which must restrict the centre's attractiveness somewhat. Generally it is noted that the units in Liffey Valley Shopping Centre have narrower frontages and are less attractively configured than the Blanchardstown Centre. There is of course a degree of relevance in respect of all the comparisons adduced by both parties in this case. In the view of the Tribunal the relationship between units within the Blanchardstown Shopping Centre and those within the Liffey Valley Shopping Centre is generally closer than with those in the Square. The Blanchardstown Centre though a slightly older development has become the flagship development of its type. Its size, its range of outlets and its lead over the Liffey Valley Centre when coming on stream have given it a general advantage. Rents fixed upon the Blanchardstown Centre's initial opening were clearly pitched to encourage a speedy take up of the units on offer and at a time when there was still some uncertainty in the market as to the success of the venture.

The strength of the economy in the late 1990's left no doubt as to the attractiveness of the Liffey Valley Shopping Centre and this is reflected in the level of rental values achieved. Nevertheless and when comparing like with like, the restriction upon size and the restriction of the range of produce sold, place a present handicap upon the Liffey Valley Centre when seeking direct parity with its near neighbour, the Blanchardstown Centre. While current rentals do not directly reflect this, the Tribunal is aware that reviews for the Blanchardstown Centre are now in train and will as a matter of inexorable logic lead to an increase in rental levels. It is the view of the Tribunal that the Square Shopping Centre in Tallaght though in no way inferior generally, nevertheless suffers by comparison with its two newer neighbours and is, thus, less satisfactory for comparison purposes.

As to the ratio of rent/NAV, the Tribunal without seeking to disregard rents nevertheless seeks a uniformity which it considers to be paramount. In the circumstances and in the light of the evidence provided, the Tribunal determines the rateable valuation on the subject property as follows:

<u>Area</u>	<u>Description</u>	<u>Sq.ft.</u>	<u>£ PSF</u>	<u>TOTAL</u>
Ground Floor	Retail Zone A	452 sq. ft.	£55.00 per sq. ft	£24,860.00

Ground Floor	Zone B	452 sq. ft	£27.50 per sq. ft	£12,430.00
Ground Floor	Zone C	452 sq. ft	£13.75 per sq. ft	£ 6,215.00
Remainder		827 sq. ft	£6.875 per sq. ft	£ 5,685.00

TOTAL NET ANNUAL VALUE				£49,190.00
			(say)	£50,000.00

RV @ 0.63% = £315.00

And the Tribunal so determines

